

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

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August 15, 2006

Memo To Counsel Re: Long Term Care Partners, LLC v. United States, et al.
Civil No. JFM-06-475

Dear Counsel:

I have reviewed the memoranda submitted in connection with plaintiff's motion for Rule 54(b) entry of final judgment as to count I and for a stay pending appeal.

The motion is granted insofar as it requests the entry of a final judgment as to count I. The claims asserted in counts I and II of the Amended Complaint are separate and distinct from one another. Therefore, this case is unlike *Spiegel v. Trustees of Tufts College*, 843 F.2d 38 (1st Cir. 1988), relied upon by the United States, where the court held that the claims asserted in multiple counts were so interdependent that the dismissal of one of the counts did not constitute a "final judgment" within the meaning of Rule 54(b). Further, in light of the fact that plaintiff has stated his intention to appeal my denial of his motion for a preliminary injunction, I am fully satisfied that "there is no just reason for delay" in appealing my ruling on the merits. As plaintiff points out, by entering a Rule 54(b) judgment, I will enable the Fourth Circuit to review my ruling directly and not through the "prism" of the preliminary injunction standards. Further, in the event that the Fourth Circuit were to affirm my preliminary injunction ruling on the basis of the preliminary injunction standards, a second appeal might ultimately be required.

Plaintiff's motion to stay pending appeal is denied. In my judgment the EEOC hearing should proceed, particularly now that plaintiff has been granted the right to intervene.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,

/s/

J. Frederick Motz
United States District Judge